

FILED
U.S. District Court
District of Kansas

02/17/2026

Clerk, U.S. District Court
By: SND Deputy Clerk

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

)
 Johan Ngun Ling,)
)
 Petitioner,)
)
 v.)
)
 Kristi Noem, Secretary of Homeland Security,)
)
 Secretary of Homeland Security)
 Washington, DC 20508)
)
 Todd M. Lyons, Acting Director, U.S. Immigration)
 and Customs Enforcement,)
)
 Sam Olson, ICE Chicago Field Office Director,)
)
 500 12th St., SW)
 Washington, D.C. 20536)
)
 Pamela Bondi, Attorney General,)
)
 950 Pennsylvania Avenue, NW)
 Washington, DC 20530-0001)
)
 Respondents.)
)

Case No. 26-3031-JWL

PETITION FOR WRIT OF HABEAS CORPUS

1. Mr. Johan Ngun Ling is a citizen of Myanmar and was admitted to the United States as a refugee.

2. He was detained by immigration officers after an Indiana conviction for Sexual Misconduct with a Minor under Indiana Code 35-42-4-9. In his Indiana case, he received a suspended sentence of 1,056 in jail with 1,056 of probation and a requirement to register as a sex offender.

3. An Immigration Judge in Kansas City ordered Mr. Ling removed on July 3, 2025

but granted Withholding of Removal under the Convention Against Torture. Mr. Ling waived appeal, which means the removal order became final that day. 8 CFR § 1241.1(b).

4. It has been more than six months since Mr. Ling was ordered removed, and he has not been removed.

5. Because the respondents are not permitted to remove Mr. Ling to Myanmar, it is unlikely he will be removed at all, as he knows of no other countries willing to receive him.

JURISDICTION AND VENUE

6. This Court has jurisdiction to hear this case under 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 2201. The individual Respondents are United States officials. 28 U.S.C. § 1346(a)(2).

7. Venue lies in this District because Petitioner is currently detained in FCI Leavenworth, a federal medium security facility in Leavenworth, Kansas, at the behest of Immigration and Customs Enforcement. Each Respondent is an agency or officer of the United States sued in his or her official capacity. 28 U.S.C. § 2241; 28 U.S.C. § 1391(e)(1).

THE PARTIES

8. Petitioner Johan Ngun Ling is a native and citizen of Myanmar (Burma) who, until his detention, resided in Indiana with his family.

9. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”). She is the cabinet-level secretary responsible for all immigration enforcement in the United States.

10. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (“ICE”). He is the head of the federal agency responsible for all immigration enforcement in the United States.

11. Respondent Sam Olson is the ICE Chicago Field Office Director. He is the head of

the ICE office overseeing the Kansas City office for Enforcement and Removal Operations, which unlawfully arrested Plaintiff, and such arrest took place under his direction and supervision. He is the immediate legal and physical custodian of Petitioner.

12. Respondent Pamela Bondi is the Attorney General of the United States. The Immigration Judges who decide removal cases and application for relief from removal do so as her designees.

13. All government Respondents are sued in their official capacities.

LEGAL BACKGROUND

14. The Convention Against Torture (“CAT”) prohibits the government from removing a noncitizen to a country where he is more likely than not to face torture. 8 C.F.R. § 1208.16(c). This protection is usually referred to as “CAT withholding of removal.”

15. For an immigration judge (serving as the designee of Respondent Bondi) to grant CAT withholding of removal to a noncitizen, the noncitizen must prove that he is more likely than not to suffer torture. “The burden of proof is on the applicant for withholding of removal under [the CAT] to establish that it is more likely than not that he or she would be tortured if removed to the proposed country of removal.” 8 C.F.R. § 1208.16(c)(2).

16. If a noncitizen is granted withholding of removal, “DHS may not remove the alien to the country designated in the removal order unless the order of withholding is terminated.” *Johnson v. Guzman Chavez*, 594 U.S. 523, 531 (2021). No exceptions exist.

17. Withholding of removal under § U.S.C. § 1231(b)(3) is a country-specific protection. As a result, the government may not remove a noncitizen with a valid grant of withholding to any country other than the one designated in the original removal order—Myanmar, in this case—unless it complies with specific procedural requirements. Should the government wish to remove an individual with a grant of withholding of removal to some other

country, due process requires that it first provide that individual with notice and an opportunity to apply for protection as to that country as well, if appropriate.

18. When an individual is ordered removed, 8 U.S.C. §1231(a) permits the government to detain them during the “removal period,” which is defined as the 90-day period during which “the Attorney General shall remove the alien from the United States.” 8 U.S.C. §1231(a)(1)(A).

19. With two exceptions not relevant here, the removal period begins on “[t]he date the order of removal becomes administratively final.” 8 U.S.C. § 1231(a)(1)(B)(i). Here, the removal order became administratively final on July 3, 2025.

20. After the removal period expires, the government may continue to detain certain noncitizens, including noncitizens with aggravated felony convictions. 8 U.S.C. § 1231(a)(6). Still, this broad authority is subject to an important constitutional limitation, which the Supreme Court has read into the statute: detention beyond the removal period is permissible only where reasonably related to a legitimate government purpose: securing the noncitizen’s physical removal from the United States. *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001).

21. When there is removal is not likely in the reasonably foreseeable future, detention presents due process concerns because “the need to detain” the noncitizen to ensure the noncitizen’s availability for future removal proceedings is “weak or nonexistent.” *Id.* at 690-92. Detention is lawful only when “necessary to bring about that alien’s removal.” *Id.* at 689.

22. Because the *Zadvydas* Court understood Congress to have recognized that not all removals can be accomplished in 90 days, the Court established a rebuttable presumption that six months from the start of the removal period could be deemed a “presumptively reasonable period,” after which the burden shifts to the government to justify continued detention by means of evidence if the noncitizen provides a “good reason to believe that there is not significant likelihood of removal in the reasonably foreseeable future.” *Id.* at 701.

FACTS

23. As outlined above, Petitioner has had a final order of removal since July 3, 2025.

24. The respondents cannot remove the petitioner to Myanmar, because an Immigration Judge granted him CAT withholding of removal, and the Department of Homeland Security did not appeal that decision.

25. More than six months have passed since the order of removal became final.

26. Legally, the United States cannot remove the petitioner to Myanmar.

27. Upon information and belief, there are no other countries to which the United States can remove the petitioner.

FIRST CLAIM FOR RELIEF: Violation of 8 U.S.C. § 1231(a)(6)

28. Petitioner re-alleges and incorporates by reference the preceding paragraphs 1-27.

29. Petitioner's continued detention by the Respondents violates 8 U.S.C. § 1231(a)(6), as interpreted by the Supreme Court in *Zadvydas v. Davis*. Petitioner's 90-day statutory removal period and six-month presumptively reasonable period for continued removal efforts expired in 2011.

30. The government bears the burden of proof under *Zadvydas* to show that removal is likely in the reasonable future. The government cannot make that showing.

31. No country has issued a travel document, and there is no expectation that any will.

32. Under *Zadvydas*, the continued detention of someone like Mr. Ling is unreasonable and not authorized by 8 U.S.C. § 1231, because he is no longer in the "removal period" and there is no reasonable likelihood that he can be removed.

REQUEST FOR RELIEF

Petitioner prays for judgment against Respondents and respectfully requests that the Court enter an order:

- a) Issuing an Order to Show Cause, ordering Respondents to justify the basis of Petitioner's detention in fact and in law, forthwith;
- b) Issuing a writ of habeas corpus, and ordering that Petitioner be released from physical custody forthwith; and
- c) Granting such other relief at law and in equity as justice may require.

Respectfully submitted,

//s// Matthew Lorn Hoppock
2026

Date: February 17,

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